IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMARY SUIT NO. 20 OF 2005

Nirav Jitendra Dharia. ... Plaintiff.

V/s.

M/s. Valji Khimji & Co. ... Defendant.

....

Mr. Umang Jain i/b. A. Bharat & Co. for the Plaintiff.
None for the Defendant.

....

CORAM : DR. D.Y.CHANDRACHUD,J.

03rd April 2007.

P.C. :

. The Plaintiff advanced a sum of Rs.3 lakhs by way of a loan to the Defendants by a cheque dated 7th May 2002 bearing No.352180 drawn on the U.T.I. Bank, Worli Branch, Mumbai - 400 018. The Plaintiff has relied upon the Bank Statement in that regard. On 24th September 2003, a part payment of an amount of Rs.50,000/- was made by the Defendant to the Plaintiff by cheque No.005075 drawn on Andhra Bank, Mumbai. A notice of demand dated 26th February 2004 was issued to the

Defendants. The Postal packet was returned as not claimed. The Suit has been instituted for the recovery of an amount of Rs.3,70,750/- as per the particulars of the claim (Exhibit D) together with further interest at the rate of 18% per annum on the principal sum of Rs.2,50,000/- from the date of the suit until payment or realisation.

2. The Defendant has been served and an affidavit of service has been filed. The Defendant has not entered appearance despite service. In the circumstances, the suit shall stand decreed in terms of the provisions of Order 37 of the Code of Civil Procedure as prayed with the modification that the Plaintiff would be entitled to interest at the rate of 9% per annum from the date of the institution of the suit until payment or realization.